

**CHAPTER 1085****MEDICAL ASSISTANCE AND  
STATE SUPPLEMENTARY ASSISTANCE PROGRAMS  
— MISCELLANEOUS CHANGES***H.F. 2134*

**AN ACT** relating to the medical assistance and state supplementary assistance programs, providing an effective date, and providing for retroactive applicability.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 135C.1, subsection 17, Code Supplement 2003, is amended to read as follows:

17. "Residential care facility" means any institution, place, building, or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, personal assistance and other essential daily living activities to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis or who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis if home and community-based services, other than nursing care, as defined by this chapter and departmental rule, are provided. For the purposes of this definition, the home and community-based services to be provided are limited to the type included under the medical assistance program provided pursuant to chapter 249A, are subject to cost limitations established by the department of human services under the medical assistance program, and except as otherwise provided by the department of inspections and appeals with the concurrence of the department of human services are limited in capacity to the number of licensed residential care facilities and the number of licensed residential care facility beds in the state as of December 1, 2003.

Sec. 2. Section 135C.4, Code 2003, is amended to read as follows:  
135C.4 RESIDENTIAL CARE FACILITIES.

Each facility licensed as a residential care facility shall provide an organized continuous twenty-four-hour program of care commensurate with the needs of the residents of the home and under the immediate direction of a person approved and certified by the department whose combined training and supervised experience is such as to ensure adequate and competent care. All admissions to residential care facilities shall be based on an order written by a physician certifying that the individual being admitted does not require nursing services or that the individual's need for nursing services can be avoided if home and community-based services, other than nursing care, as defined by this chapter and departmental rule, are provided. For the purposes of this section, the home and community-based services to be provided shall be limited to the type included under the medical assistance program provided pursuant to chapter 249A, shall be subject to cost limitations established by the department of human services under the medical assistance program, and except as otherwise provided by the department of inspections and appeals with the concurrence of the department of human services shall be limited in capacity to the number of licensed residential care facilities and the number of licensed residential care facility beds in the state as of December 1, 2003.

Sec. 3. NEW SECTION. 222.60A COST OF ASSESSMENT.

Notwithstanding any provision of this chapter to the contrary, any amount attributable to any fee assessed pursuant to section 249A.21 that would otherwise be the liability of any county shall be paid by the state. The department may transfer funds from the appropriation

for medical assistance to pay any amount attributable to any fee assessed pursuant to section 249A.21 that is a liability of the state.

Sec. 4. Section 249.3, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4. At the discretion of the department, persons who meet the criteria listed in all of the following paragraphs:

- a. Are either of the following:
  - (1) Sixty-five years of age or older.
  - (2) Disabled as defined by 42 U.S.C. § 1382c(a)(3), except that being engaged in substantial gainful activity shall not preclude a determination of disability for the purpose of this subparagraph.
- b. Live in one of the following:
  - (1) The individual's own home.
  - (2) The home of another individual.
  - (3) A group living arrangement.
  - (4) A medical facility.
- c. Would be eligible for supplemental security income benefits but for having excess income or but for being engaged in substantial gainful activity and having excess income.
- d. Are not eligible for another state supplementary assistance group.
- e. Receive medical assistance under chapter 249A and are not required to meet a spend-down or pay a premium to be eligible for such benefits.
- f. Is currently eligible for Medicare part B.
- g. Have income exceeding one hundred thirty-five percent of the federal poverty level but not exceeding the medical assistance income limit for the eligibility group for the individual person's living arrangement.

Sec. 5. Section 249.4, Code 2003, is amended to read as follows:

249.4 APPLICATION — AMOUNT OF GRANT.

1. Applications for state supplementary assistance shall be made in the form and manner prescribed by the director or the director's designee, with the approval of the council on human services, pursuant to chapter 17A. Each person who so applies and is found eligible under section 249.3 shall, so long as the person's eligibility continues, receive state supplementary assistance on a monthly basis, from funds appropriated to the department for the purpose.

2. Any person who applies within fifteen months from the date of implementation of eligibility pursuant to section 249.3, subsection 4, and who would have been eligible under that subsection for any period on or after October 1, 2003, may be granted benefits retroactive to October 1, 2003.

Sec. 6. Section 249A.21, subsection 1, Code 2003, is amended to read as follows:

1. The department may assess intermediate care facilities for persons with mental retardation, as defined in section 135C.1, ~~that are not operated by the state~~, a fee in an amount not to exceed six percent of the total annual revenue of the facility for the preceding fiscal year.

Sec. 7. Section 249A.21, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The department may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this section, and any fee assessed pursuant to this section against an intermediate care facility for persons with mental retardation that is operated by the state may be made retroactive to October 1, 2003.

Sec. 8. 2003 Iowa Acts, chapter 112, section 4, subsection 9, is amended to read as follows:

9. The department may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this section, and any assessment made pursuant to this section may be made retroactive to October 1, 2003.

Sec. 9. WAIVER PAYMENT SLOTS. The department of human services shall provide an opportunity for counties to request an expansion of the county's home and community-based waiver<sup>1</sup> payment slots under the medical assistance program in order to add slots to address the changes in the definition of "residential care facility" under chapter 135C made by this Act. Any expansion in the number of waiver payment slots as described in this section shall be implemented on July 1, 2004, or the date authorized in the federal approval of the expansion of the waiver slots, whichever is later.

Sec. 10. RETROACTIVE APPLICABILITY. The following provisions of this Act are retroactively applicable to October 1, 2003:

1. The provision creating section 222.60A, relating to the costs of the assessment for intermediate care facilities for persons with mental retardation.
2. The provision creating section 249.3, subsection 4, relating to state supplementary assistance eligibility.
3. The provision amending section 249.4, relating to applications and amounts of grants for state supplementary assistance.
4. The provision amending section 249A.21, subsection 1, and the provision creating section 249A.21, subsection 6, relating to the nursing facility<sup>2</sup> quality assurance assessment.
5. The provision amending 2003 Iowa Acts, chapter 112, section 4, subsection 9, relating to the adoption of administrative rules relating to the nursing facility quality assurance assessment.

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 16, 2004

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## CHAPTER 1086

### NONSUBSTANTIVE CODE CORRECTIONS

*H.F. 2208*

**AN ACT** relating to nonsubstantive Code corrections and including effective and retroactive applicability date provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 2B.10, Code Supplement 2003, is amended to read as follows:  
2B.10 ~~SESSION LAWS IOWA ACTS.~~

1. The arrangement of the Acts and resolutions, and the size, style, type, binding, general arrangement, and tables of the ~~session laws Iowa Acts~~ shall be printed and published in the manner determined by the Iowa Code editor in accordance with the policies set by the legislative council as provided in section 2.42.
2. Chapters of the first regular session shall be numbered from one and chapters of the second regular session shall be numbered from one thousand one.
3. A list of elective state officers and deputies, supreme court justices, judges of the court of appeals, and members of the general assembly shall be published annually with the ~~session laws Iowa Acts~~.
4. A statement of the condition of the state treasury shall be included, as provided by the

<sup>1</sup> The phrase "home and community-based services waiver" probably intended

<sup>2</sup> The phrase "intermediate care facilities for persons with mental retardation" probably intended